IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

SATURDAY, THE 1ST DECEMBER 2007 / 10TH AGRAHAYANA 1929

WP(C).No. 32930 of 2007(T)

PETITIONER:

BHARAT SANCHAR NIGAM LTD.,
REPRESENTED BY ITS ASSISTANT GENERAL MANAGER (MM),
OFFICE OF THE GENERAL MANAGER, TELECOM DISTRICT,
KOLLAM.

BY ADV. SRI.K.RAMAKUMAR, SC, BSNL

RESPONDENTS:

---

1. THE STATE OF KERALA, REPRESENTED BY
THE CHIEF SECRETARY, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR,
KOLLAM.

3. THE REVENUE DIVISIONAL OFFICER,
KOLLAM.

4. THE TAHSILDAR,
PATHANAPURAM TALUK, PUNALUR.

BY GOVERNMENT PLEADER SRI. TEK CHAND

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J

W.P.(C).32930/2007

Dated this the 1st day of December, 2007

JUDGMENT

The petitioner, Bharat Sanchar Nigam Ltd., Government Of India, claims exemption from building tax, in view of the provisions contained in Article 285 of the Constitution of India.

2. Petitioner submits that though certain assets, which were held by the Government of India with erstwhile Department of Telecommunications, were transferred to the petitioner, the title to these properties are still retained by the Government of India. According to the petitioner, since the properties are still that of Government of India and therefore, in respect of buildings, which are held by the petitioner, they are not liable to be levied building tax, since its ownership still vests with the Union of India. On this basis, petitioner seeks to take advantage of Section 3 of Kerala Building Tax Act and is claiming exemption.

3. Section 3 of the Act provides for exemptions and the buildings owned by the Government of India is also exempted from levying building tax

4. Section 3(2) of the Act provides that if any question arises as to whether a building falls under subsection 1 or under Section 3A, it shall be referred to the Government, and the Government shall decide the question after giving the interested parties an opportunity to present their case.

5. In this case, what the petitioner claims is the benefit of Section 3(1) of Building Tax Act and therefore, the matter has to be decided by the first respondent in terms of Section 3(2) of the Act.

6. In view of the above, fourth respondent is directed to refer the matter to the competent authority under the Government of Kerala to decide on the claim of the

petitioner for exemption in terms of Section 3(1) of the Building Tax Act. Fourth respondent shall do this within three weeks from the date of receipt of a copy of this judgment and there upon, competent authority under the Government of Kerala shall consider and take an appropriate decision in the matter, in accordance with law. Until orders are passed on the claim of the petitioner as directed above, respondent shall not enforce Ext.P1 against the petitioner.

Writ petition is disposed of as above.

ANTONY DOMINIC
Judge

mrcs